

OFFICIAL COPY

Fresno, California

July 20, 2004

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
 Jon Ruiz, Assistant City Manager
 Hilda Cantu Montoy, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Reverend Terrie Purgason, Fresno First Baptist Church, gave the invocation, and President Castillo led The Pledge of Allegiance.

SPCA PET OF THE MONTH - COUNCILMEMBER STERLING

The pet of the month up for adoption, a hound-mix puppy, was showcased.

SPECIAL RECOGNITION TO THE PERSONNEL SERVICES DEPARTMENT FROM UNITED WAY FOR THE BEST CAMPAIGN TEAM

Personnel Director Gonzales and her staff were recognized and commended by the United Way and the City.

PROCLAMATION OF FRESNO RAGE GIRLS SOFTBALL TEAM DAY - COUNCILMEMBERS BOYAJIAN AND CALHOUN

Read and presented.

PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE SUMMER QUARTER

Certificates of Commendation were presented to Nicole Zieba, Mayor/Council/City Manager/City Clerk Departments; Cyndy Cross and Kristie Elbert, Finance Department; Donald Ockey, Ronald Stogdell and Pete Flores, Fire Department; Bruce Rudd, Ruben Huracha and Robert Leon, Fresno Area Express; Mark Gable and Jim Reaves, General Services Department; Conrad Gonzales, Parks & Recreation Department; John Eland and Rosie Garcia, Personnel Services Department; John Tanksley and Katheryn Cornell, Planning & Development; Ruben Barrios, Tabettha Silva, Dorothy Tristan and Mary Ann Erickson, Police Department; Robin Keldsen, Dwayne Garabedian, Annette Adams, Steven Secoy, Randy Clifton and Liz Foin, Public Utilities Department; and Juanita Garcia, Terry Buller, Joe Paff, Rudy Cabanela and Gary Winkler, Public Works Department **(2 - 0)**. A reception was held immediately following the presentation to honor the employees.

APPROVE MINUTES:

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of June 29 and July 7, 2004, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

144-2

7/20/04

COMMENDATION TO CITY ATTORNEY'S OFFICE, COUNCILMEMBER DUNCAN AND CODE ENFORCEMENT FOR ENFORCING THE VACANT AND DANGEROUS BUILDING ORDINANCE - COUNCILMEMBER BOYAJIAN

Commendation made with Councilmember Boyajian speaking to the good things that were happening downtown.

COMMENDATION TO RINGLING BROS. CIRCUS FOR ANOTHER SUCCESSFUL DOWNTOWN RUN - COUNCILMEMBER DUNCAN

Commendation made.

REQUEST FOR STATUS REPORT AND SCHEDULE ON FIRE STATION REPAIRS PAID FOR BY THE BOND AUTHORIZED BY COUNCIL ONE YEAR AGO - COUNCILMEMBER DUNCAN

Request made.

INTENT TO SCHEDULE THE BNSF RUNNING PASS ISSUE ON THE AGENDA IN ONE MONTH FOR DISCUSSION AND DIRECTION AFTER RECEIPT OF FULL INFORMATION - COUNCILMEMBER CALHOUN

Announcement made.

REQUEST (1) FOR INFORMATION ON THE REALLOCATION OF \$390K FOR AFTER SCHOOL RECREATION PLAYGROUND PROGRAMS, AND (2) FOR CLOSE AUDITING/MONITORING OF THE NO NEIGHBORHOOD LEFT BEHIND PROGRAM FUNDS - COUNCILMEMBER CALHOUN

Requests made.

PROPOSED VACANT HOME ORDINANCE - ACTING PRESIDENT PEREA

Acting President Perea questioned if anyone had taken the lead on the issue with Councilmember Boyajian responding and suggesting Mr. Perea speak with Deputy City Attorney Beck who has been working on the issue.

REQUEST FOR (1) STAFF MAKE THE ANNUAL PASS FOR CITY PARKS AVAILABLE FOR PURCHASE AT PARK ENTRANCES WITH ADVERTISEMENTS/SIGNS, AND (2) REPORT ON MEXICANA AIRLINES INCLUDING MEETINGS WITH THE AG INDUSTRY AND STATUS OF THE INSPECTION STATION - PRESIDENT CASTILLO

Requests made with City Manger Hobbs advising a report on Mexicana dated July 19th had been submitted to Council.

APPROVE AGENDA:

(2:00 P.M. #3 "A") JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY - CONFERENCE WITH LEGAL COUNSEL ON EXISTING LITIGATION - CASE NAME: REDEVELOPMENT AGENCY V. ROBERT EDWARDS, FRESNO SUPERIOR COURT CASE #03CECG00433

Removed from the agenda by City Attorney Montoy due to the absence of the Agency Executive Director.

(2-A) COUNCIL RECONSIDERATION OF FISCAL YEAR 2005 BUDGET LINE ITEMS (ANNUAL APPROPRIATION RESOLUTION NO. 2004-209) AS REQUESTED BY MAYOR AUTRY ON JULY 2, 2004

1. RESTORATION OF \$180,000 FOR THE POSITION OF INDEPENDENT POLICE AUDITOR

At the request of Councilmember Boyajian and with Council consensus, the above matter was set for 4:30 p.m. for citizen convenience.

144-3

7/20/04

(5:00 P.M.) HEARING ON PLAN AMENDMENT NO. A-03-07, REZONE APPLICATION NO. R-03-49, AND ENVIRONMENTAL FINDINGS, FILED BY DIRK POESCHEL ON BEHALF OF WCM LAND L.P. AND NORMAN LIDDELL, PROPERTY LOCATED ON THE EAST SIDE OF N. POLK BETWEEN W. RIVER VISTA DRIVE AND THE SAN JOAQUIN RIVER BLUFF EDGE IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-07/R-03-49
2. **RESOLUTION** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE BULLARD COMMUNITY PLAN
3. **RESOLUTION** - AMENDING THE SIERRA SKY PARK LAND USE POLICY PLAN
4. **BILL** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-20/UGM TO R-1/BP/UGM

City Clerk Klisch advised Resolution #3 was being removed as it was not necessary. So noted.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Barbara Hunt, 2475 S. Walnut, spoke in opposition to items related to the airport and to the illegality of the name Fresno Yosemite International.

(1-A) APPROVE AN AGREEMENT WITH DALE RUTHERFORD, AIA, IN AN AMOUNT NOT TO EXCEED \$304,632. FOR CONSULTANT SERVICES FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT SMART PROGRAM (ACOUSTICAL TREATMENT OF 80 HOMES/FAR PART 150 NOISE COMPATIBILITY RESIDENTIAL ACOUSTIC TREATMENT PROGRAM), AND AUTHORIZE THE DIRECTOR OF AVIGATION TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-B) **RESOLUTION NO. 2004-229** - 1ST AMENDMENT TO AAR 2004-209 APPROPRIATING \$209K IN GRANT FUNDS FROM THE STATE OF CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR THE WASTE TIRE ENFORCEMENT PROGRAM

(1-C) AWARD A CONTRACT IN THE AMOUNT OF \$1,482,804.60 TO AMERICAN PAVING CO. OF FRESNO FOR CONSTRUCTION OF THE PROMENADE PARKING LOT ON PROPERTY BOUND BY TULARE, THE Q-R ALLEY, VENTURA AND THE BNSF RAILROAD

Councilmember Calhoun spoke in support of the issue and expressed his appreciation to public works staff for their work.

(1-E) **RESOLUTION NO. 2004-230** - APPROVING THE FINAL MAP OF TRACT NO. 5195 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHWEST CORNER OF E. BUTLER AND S. MINNEWAWA AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT
2. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-F) **RESOLUTION NO. 2004-231** - INTENT TO ANNEX FINAL TRACT NO. 5220 TO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 71, AND SETTING THE PUBLIC HEARING FOR AUGUST 24, 2004

(1-H) **RESOLUTION NO. 2004-232** - ESTABLISHING A "NO STOPPING ANYTIME OF VEHICLES OVER 6 FEET IN HEIGHT" ON W. PALO ALTO AVENUE FROM N. MILBURN AVENUE TO APPROXIMATELY 1,000 FEET EAST AT THE CUL-DE-SAC TERMINATION POINT, BOTH THE NORTH AND SOUTH SIDES OF PALO ALTO FROM N. MILBURN EASTERLY TO THE TERMINATION OF PALO AVENUE AT THE CUL-DE-SAC (APPROXIMATELY 1000 FT)

144-4

7/20/04

(1-I) APPROVE MATTERS RELATIVE TO THE AMALGAMATED TRANSIT UNION (ATU), LOCAL 1027

1. ADOPT THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND ATU, BUS DRIVERS (UNIT 6), TO BE ATTACHED TO THE CURRENT MEMORANDUM OF UNDERSTANDING (MOU)

2. RESOLUTION NO. 2004-233 - 1ST AMENDMENT TO SALARY RES. 2004-213 AMENDING EXHIBIT 6

3. ADOPT THE MOU BETWEEN THE CITY OF FRESNO AND ATU, LOCAL 1027, BUS DRIVERS (UNIT 6), COVERING THE PERIOD JULY 2, 2004, THROUGH JUNE 30, 2006

(1-K) AWARD A \$159,000 SOLE SOURCE CONTRACT TO MEGADATA CORPORATION FOR A FLIGHT INFORMATION DISPLAY SYSTEM (FIDS) AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

1. RESOLUTION NO. 2004-234 - AUTHORIZING THE DIRECTOR OF AVIATION TO ENTER INTO AN AGREEMENT WITH MEGADATA CORPORATION FOR THE SYSTEM AT FYI WITHOUT ADVERTISED COMPETITIVE BIDDING

Councilmember Calhoun stated he always looks closely at sole source issues and he was very comfortable with this one stating staff did a good job here and explained.

(1-L) AWARD A 4-MONTH INTERIM CONTRACT TO WEST COAST ARBORISTS, INC., OF ANAHEIM, CA, IN THE ESTIMATED AMOUNT OF \$235K FOR MUNICIPAL STREET TREE SERVICES THROUGH OCTOBER 31, 2004, UNTIL THE CURRENT PROPOSAL PROCESS IS COMPLETED AND AN AWARD IS MADE

Councilmember Calhoun stated he was a little concerned at first but was in support of the issue as it made sense to slow down for a few months as the maintenance transition takes place and to make sure the bids are done right.

(1-M) BILL NO. B-67 - ADDING SECTION 4-105 TO THE FRESNO MUNICIPAL CODE RELATING TO RECEIPT AND RECORDING OF PERSONAL PROPERTY

(1-N) BILL NO. B-68 - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE ADDING "FURRIER" TO THE C-P (ADMINISTRATIVE AND PROFESSIONAL OFFICE) ZONE DISTRICT SUBJECT TO A CONDITIONAL USE PERMIT (CUP)

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

(9:45 A.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED PUBLIC COMMENT:

1. APPEARANCE BY DAMIEN BERG, OWNER OF AMERICAN BODY WORKS, TO REQUEST LANGUAGE IN THE FRESNO MUNICIPAL CODE BE AMENDED RELATIVE TO PERSONS UNDER THE AGE OF EIGHTEEN REQUESTING TREATMENT IN A MASSAGE PRACTICE

Appearance and request made. Councilmember Calhoun stated Mr. Berg's request made sense and he supported staff taking the request under consideration and reporting back. Upon question of President Castillo, City Attorney Montoy confirmed the municipal code prohibited underage persons at massage businesses and advised she would send information on the issue to Council in memo form and any Council member who wished could place the matter on an upcoming agenda. Staff was requested to inform Mr. Berg if/when the matter is scheduled and there was no further discussion.

2. APPEARANCE BY JEFF JONES TO DISCUSS A BETTER TAXING SOLUTION

Not present when called.

144-5

7/20/04

(B) UNSCHEDULED COMMUNICATION:

APPEARANCE BY BARBARA HUNT, 2475 S. WALNUT, REGARDING THE SPHERE OF INFLUENCE, THE MASTER SETTLEMENT AGREEMENT, SOUTHEAST VILLAGE II, AND THE ILLEGALITY OF THE REDEVELOPMENT AGENCY

Appearance made. Relative to the agreement with Fresno County and agreement to develop the Roeding Business Park to 60% before any more business parks are allowed, President Castillo questioned what the plan was to develop to 60% and stated he wanted to see a plan for the next five years, with City Manager Hobbs and Councilmember/Agency Chair Boyajian responding.

(2:30 P.M.) HEARING ON THE CONSOLIDATED PLAN

Councilmember Sterling noted she just received the Consolidated Plan and suggested postponing the hearing for one week if there was no time sensitivity so Council could review it. A motion and second was made to continue the hearing one week whereupon City Attorney Montoy clarified the Agenda was already approved and Council could decide at 2:30 whether or not to continue the hearing.

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(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 69, FINAL TRACT MAP NO. 5281

1. RESOLUTION NO. 2004-235 - ANNEXING TERRITORY

2. RESOLUTION NO. 2004-236 - CALLING A SPECIAL MAILED BALLOT ELECTION

3. RESOLUTION NO. 2004-237 - DECLARING ELECTION RESULTS

4. BILL NO. B-69 - ORDINANCE NO. 2004-68 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Public Works Director Kirk reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke to the need for oversight on CFDs and the taxes.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of President Castillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-235, 2004-236 and 2004-237 hereby adopted, and the above entitled Bill No. B-69 adopted as Ordinance No. 2004-68, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

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(2-B) CONSIDER COUNCIL OVERRIDE OF LINE ITEM VETO REGARDING RESOLUTION NO. 2004-209 (ANNUAL APPROPRIATION RESOLUTION) AS REQUESTED BY MAYOR AUTRY ON JULY 2, 1004

1. REDUCTION OF \$193,100 FOR THE HUMAN RELATIONS COMMISSION (HRC)

(3 - 0) Councilmember Sterling stated her concern with doing away with the IPA and now minimizing the HRC was that the city was going in the wrong direction and emphasized cutting the HRC's funding was going too far, and spoke in strong support of, and to the need for, the HRC and made a motion to override the Mayor's veto, which motion was seconded and later acted upon.

Barbara Hunt, 2475 S. Walnut, spoke in support of the motion.

Upon question of Councilmember Duncan, Budget Manager Smith stated the HRC originally requested \$157,100. Councilmember Duncan noted the subject amount was \$40K more than what the HRC requested, clarified the commission was not being eliminated and members would still be able to offer their skills as volunteers and continue to resolve conflicts, and stated this was about creating a strong volunteer group and not about image/status based on a large budget.

144-6**7/20/04**

Councilmember Sterling stated she would amend her motion to fund the HRC at their original request of \$157K, and expressed concern that some council members do not even appoint people to the HRC and spoke to a specific problem that occurred in her district and to the HRC's intervention and success in resolving that problem. City Attorney Montoy stated changing the amount was not permissible, and pointed out if this issue and the Mayor's reconsideration request fails the HRC would get zero funding.

Ms. Smith, City Manager Hobbs and Ms. Montoy responded to questions of President Castillo relative to how the subject funds would be used if the veto fails, how the funds were currently being used, what the \$157K requested by the HRC would pay for, request for a detailed breakdown on overhead costs for the HRC, and what the difference was between a committee and a commission.

A motion of Councilmember Sterling, seconded by Councilmember Boyajian, to override the Mayor's veto failed, by the following vote, *due to the need for five affirmative votes*:

Ayes : Boyajian, Perea, Sterling, Castillo
 Noes : Calhoun, Dages, Duncan
 Absent : None

(2-A) COUNCIL RECONSIDERATION OF FISCAL YEAR 2005 BUDGET LINE ITEMS (ANNUAL APPROPRIATION RESOLUTION NO. 2004-209) AS REQUESTED BY MAYOR AUTRY ON JULY 2, 2004

2. ALLOCATE FUNDING IN THE AMOUNT OF \$35,000 FOR THE HUMAN RELATIONS COMMISSION (HRC) FOR PROGRAMS, CULTURAL EVENTS AND GRANT WRITING

A motion and second was made to approve reconsider/approve the \$35,000 allocation for the HRC.

Barbara Hunt, 2475 S. Walnut, spoke in support.

On motion of Councilmember Sterling, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, Council reconsideration to allocate funding in the amount of \$35,000 for the HRC for programs, cultural events and grant writing hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
 Noes : Duncan
 Absent : None

(10:10 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 72, FINAL TRACT MAP NO. 5260

1. RESOLUTION NO. 2004-238 - ANNEXING TERRITORY

2. RESOLUTION NO. 2004-239 - CALLING A SPECIAL MAILED BALLOT ELECTION

3. RESOLUTION NO. 2004-240 - DECLARING ELECTION

4. BILL NO. B-70 - ORDINANCE NO. 2004-69 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke to the need for oversight.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-238, 2004-239 and 2004-240 hereby adopted, and the above entitled Bill No. B-70 adopted as Ordinance No. 2004-69, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo

Noes : None
Absent : None

144-7

7/20/04

(10:30 A.M.) HEARING ON RESOLUTION OF INTENTION TO RESCIND RESOLUTION NO. 2002-146 AND ORDERING THE VACATION OF MAIN STREET BETWEEN "N" AND "O" STREETS, AND PORTIONS OF THE "N" AND "O" STREET BETWEEN TULARE AND MAIN STREETS

1. **RESOLUTION NO. 2004-241** - RESCIND RESOLUTION NO. 2002-146 AND ORDERING THE VACATION OF MAIN STREET BETWEEN "N" AND "O" STREETS, PORTION OF "N" AND "O" BETWEEN TULARE AND MAIN, A PORTION OF THE "N-O" ALLEY BETWEEN TULARE AND MAIN, A PUBLIC UTILITY EASEMENT IN THE "N-O" ALLEY ALIGNMENT BETWEEN TULARE AND MAIN, AND A PUBLIC UTILITY EASEMENT IN OUTLOT "A" OF PARCEL MAP NO. 83-46, SUBJECT TO THE CONDITIONS SPECIFIED IN EXHIBIT "B", AND AUTHORIZING AND DIRECTING THE PUBLIC WORKS DIRECTOR TO EXECUTE QUITCLAIM DEEDS SO THAT FEE TITLE TO THE VACATED AREAS SHALL PASS TO CIVIC CENTER SQUARE. INC.

President Castillo announced the time had arrived to consider the issue and opened the hearing. Public Works Director Kim stated this was a housekeeping issue and gave an overview of the issue as contained in the staff report as submitted and recommended approval..

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-241 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

RECESS - 10:46 A.M. - 10:58 A.M.

(10:45 A.M.) ADOPT AN AMENDMENT TO THE CITY OF FRESNO DEFERRED COMPENSATION PLAN DOCUMENT TO MODIFY THE COMPOSITION OF THE CITY DEFERRED COMPENSATION COMMITTEE BASED ON RESULTS OF A COUNCIL-REQUESTED SURVEY OF PLAN PARTICIPANTS

Retirement Administrator McDivitt reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, and Sandra Brock. P.O. Box 8074, Squaw Valley, plan participant, support.

Relative to the four members that would select the fifth outside member, Councilmember Calhoun stated he wanted that to be by a unanimous-not majority-vote, with Mr. McDivitt responding and stating he and the committee would not object to adding that language. Councilmember Calhoun made a motion to approve as amended to add the word *unanimous* at the appropriate place. **(4 - 0)** City Manager Hobbs pointed out by making the selection unanimous there was the possibility of one person who doesn't agree holding the group hostage. Upon question of President Castillo, Mr. McDivitt stated the board would have to approve this and he felt they would be supportive.

On motion of Councilmember Calhoun, seconded by President Castillo, duly carried, RESOLVED, the proposed amendment to the Deferred Compensation Plan document hereby approved, as amended, adding the appropriate language to require the fifth member to be chosen by a *unanimous* vote of the other four members, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(2-C) CONSIDER DIRECTION TO STAFF TO PREPARE AN ORDINANCE THAT WOULD PROVIDE A MORE COMPREHENSIVE LIST OF MAINTENANCE SERVICES THAN PROVIDED FOR UNDER THE EXISTING AUTHORITY AND THAT ALLOWS FOR THE ESTABLISHMENT OF NEW COMMUNITY FACILITIES DISTRICTS FOR THE INCLUSION OF ALL NEW DEVELOPMENTS IN THE CITY

144-8

7/20/04

Assistant City Manager Ruiz and Public Works Director Kirn reviewed the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Mr. Kirn responded to questions and/or comments of Councilmember Duncan relative to why landscaping costs were included in Exhibit A, if this would be an expansion of CFD No. 2 or a whole new program, if this would apply to new subdivisions only, if the districts would be based on individual subdivisions or collector street borders, if new homeowners will have the confidence that the money will stay in their district and be available to address their needs, if the actual costs would be fine-tuned, the city's infrastructure problem that continues to get worse every year and this stopping that problem from getting worse, if this would go a long way towards putting an end to the argument that new development does not pay its way, if homeowners will know up-front what the cost will be, and if this could be modified to allow existing neighborhoods to participate if they wish. A motion and second was made to approve staff's recommendation. Extensive discussion continued with Mr. Kirn, City Manager Hobbs, Mr. Ruiz and City Attorney Montoy responding to numerous questions and/or comments of Councilmembers Calhoun and Dages relative to why San Jose's model was chosen over others and if staff was not rushing into the first thing that came along, if this would replace the 7-week program work, concern with older areas being subsidized by the city and new areas having to pay and how that can be rationalized, why older areas could not be offered an assessment to receive the better level of maintenance that new neighborhoods will receive, need to address the older neighborhoods and let them know this is the direction the city is going and there will be no more subsidies, certain types of problem trees planted in park strips and need to stop that, the code not allowing problem trees to be removed, streetlight cost, if the city will be handling the money and if a process will be set up so problems encountered with administration of UGM fees do not occur again, what will happen to the interest on the monies, accounting costs, if sidewalk/curb damages at a home caused by a tree will be dealt with immediately or be put on a waiting list and concern with getting back into an eight year wait, a CPI fee, sidewalk problems usually occurring twenty years down the road and if these costs are true-faith estimates, eliminating lawns to reduce costs, concern with the inability now to replace dead plants at Church & Clovis Avenues where people are paying for the service and fear that the same thing will happen here, concern with this not happening soon enough, and if this could be implemented now or made retroactive on new subdivisions in southeast Fresno currently moving dirt **(5 - 0)**. Councilmember Boyajian expressed his support stating it showed vision and along with Acting President Perea questioned and/or commented on how this would be implemented, how it would affect the 7-week program, if money being freed up in the long run will be spent on older areas, and support for some type of policy being put in place so any freed up money does not get lost in the general fund. Councilmember Duncan clarified the city was falling behind \$100,000 a day on its infrastructure situation and this was the first step in an effort to plug that hole **(6 - 0)**, and concurred with Acting President Perea that this had the potential to free up dollars down the road that could be put into the inner-city and stay on top of areas that are struggling. President Castillo asked what he should tell existing neighborhoods that do not fall in the No Neighborhood Left Behind program and who pay property taxes what their money is paying for and requested staff include in their report back a policy and projected savings over a 10-15 year period along with options to address older neighborhoods so Council can tell neighborhoods their sidewalks will be repaired as a result of this new ordinance.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, staff directed to prepare an ordinance that would provide a more comprehensive list of maintenance services than provided for under existing authority and that allows for the establishment of new Community Facility Districts (CFDs) for the inclusion of all new development, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

LUNCH RECESS - 12:15 P.M. - 2:02 P.M. Councilmember Boyajian arrived later.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR ITEMS:

(1-D) RESOLUTION NO. 2004-242 - 1ST AMENDMENT TO PAR 2004-210 ADDING A PHLEBOTOMIST POSITION TO THE POLICE DEPARTMENT TRAFFIC BUREAU

Lt. Hall responded to questions of President Castillo relative to whether blood draws would now start on those individuals that the city is not reimbursed for, what type of individuals get the blood draws, why the cost is not raised to offset the costs incurred, if payment of the cost in full is a condition for release from probation, and if a phlebotomist would be on site at DUI checkpoints.

On motion of President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-242 hereby adopted, the following vote:

144-9

7/20/04

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : Boyajian

(1-G) APPROVE LEASE AGREEMENT WITH VALLEY AIR CONDITIONING & REPAIR, INC., FOR SPACE UNDER THE TUOLUMNE STREET OVERPASS AT "G" STREET

Senior Real Estate Agent Balch and City Attorney Montoy responded to questions of President Castillo relative to whether this was city or redevelopment agency property, if this was a "sweetheart deal" or if other businesses were informed/given an opportunity to lease the space, who would incur the cost for the fencing, other city-owned properties that could be leased, if there were any concerns or if there could be any repercussions from individuals who were not made aware of this, and request to staff to publish an ad or RFP in the newspaper in the future for fairness to all. Councilmember Boyajian arrived at 2:08 p.m. during the questioning.

On motion of President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the lease agreement with Valley Air Conditioning & Repair, Inc., for material and equipment storage under the Tuolumne overpass on the southwest side of "G" Street for a 10-year period hereby approved, and the Public Works Director authorized to sign the lease agreement on behalf of the City, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(1-J) APPROVE REQUEST BY THE LAW FIRM OF SAGASER, FRANSON & JONES FOR A CONFLICT OF INTEREST WAIVER FOR TIM JONES OF THE FIRM REGARDING *CITY OF FRESNO V. COUNTY OF MADERA, RESPONDENT AND CENTRAL GREEN COMPANY, ET AL*, REAL PARTIES IN INTEREST

Upon question of President Castillo, City Attorney Montoy confirmed the law firm -- who currently represents the city in personnel matters -- was going to represent an individual who was part of the planned community in Madera County and explained, and stated staff did not believe there was any real conflict. **(7 - 0)** President Castillo stated there might not be a conflict but he was not comfortable with this and he did not want to see someone working for the city defending someone the city was suing, with Ms. Montoy responding.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the conflict of interest waiver requested by Sagaser, Franson & Jones for Tim Jones hereby authorized, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling
 Noes : Boyajian, Castillo
 Absent : None

(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA)
2. FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

(B) CONFERENCE WITH LEGAL COUNSEL ON EXISTING LITIGATION - CASE NAME: BAKMAN WATER COMPANY, INC.

V. BOEING NORTH AMERICAN, INC., CITY OF FRESNO, THE USA DEPARTMENT OF ARMY CORPS OF ENGINEERS, ET AL, USDC CASE NO. CIV F-01-6249 REC DLB

The City Council met in closed session in Room 2125 at the hour of 2:20 p.m. to consider the above issues and reconvened in regular open session at 3:17 p.m.

(2-D) STATUS REPORT ON CVP WATER SUPPLY CONTRACT RENEWAL PROCESS REGARDING PROPOSED CONTRACT WITH THE U.S. DEPARTMENT OF INTERIOR, BUREAU OF RECLAMATION

144-10

7/20/04

Public Utilities Director McIntyre stated this report was being presented for clarification purposes only and no action was needed or necessary, and gave a status report on the issue, all as contained in the staff report as submitted. In addition to the staff report and attachments presented, City Attorney Montoy submitted and entered into the record faxed letters from Mr. Raymond Carlson and related documents relative to the issue, copies of which are on file in the office of the city clerk. There was no further discussion.

(2:30 P.M.) HEARING ON THE 2001-2004 CONSOLIDATED PLAN

1. RESOLUTION NO. 2004-243 - AMENDING THE 2001-2004 CONSOLIDATED PLAN TO INCLUDE FISCAL YEAR 2005

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Management Analyst Smith stated action was being requested this date as the matter was time sensitive and gave an overview of the issue as contained in the staff report as submitted, and along with City Manager Hobbs added Council action would not affect any allocation decisions previously made by Council and also pointed out the city would be prevented from spending the funds that Council allocated for specific purposes if the issue is not executed in a timely fashion.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-243 hereby adopted, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Sterling, Castillo
Noes :	Boyajian, Perea
Absent :	None

(3:45 P.M.) HEARING ON REZONE APPLICATION NO. R-02-31 AND ENVIRONMENTAL FINDINGS, FILED BY ELLIS ENTERPRISES, SOUTHWEST CORNER OF N. WILLOW AND E. ALLUVIAL AVENUES IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-31/R-02-32/C-03-57/C-03-58

2. BILL NO. B-71 - ORDINANCE NO. 2004-70 - AMEND THE OFFICIAL ZONE MAP TO REZONE FROM RR (COUNTY) TO R-2/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Gerster reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Applicant Scott Ellis, Jr., who stated this would be a quality project and elaborated, displaying a site plan to illustrate; and Barbara Hunt, 2475 S. Walnut, support.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Upon question of Councilmember Duncan, Mr. Ellis stated the setback issue had been resolved. Councilmember Duncan spoke

in support of the project and made a motion to approve staff's recommendation. Mr. Ellis responded to questions of Councilmember Boyajian relative whether Willow Avenue would be widened, plans for Willow & Alluvial and Willow & Nees, and planned signalization in the area.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. R-02-31/C-03-57/R-02-32/C-03-58, dated December 30, 2003, hereby approved, and the above entitled Bill No. B-71 rezoning the project site adopted as Ordinance No. 2004-70, subject to the following conditions: (1) Installation of a six-foot high block wall along the west property line of the project, (2) installation of a three-foot landscape setback along the west property line to allow for vines to cover the required solid wall, (3) Installation of tree wells in between the carports for more visual screening, and (4) at 7304 and 7464 N. Paula Avenues, trees shall be planted on the west side of the wall at a type and spacing to be agreed upon by the property owner and Ellis Enterprises within 30 days after approval of Rezone Application No. R-02-31, by the following vote:

144-11

7/20/04

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(3:50 P.M.) HEARING ON REZONE APPLICATION NO. R-02-32, AND ENVIRONMENTAL FINDINGS, FILED BY SCOTT ELLIS ENTERPRISES, WEST SIDE OF N. WILLOW AVENUE JUST NORTH OF E. ALLUVIAL AVENUE IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-31/R-02-32/C-03-57/C-03-58

2. BILL NO. B-72 - ORDINANCE NO. 2004-71 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR (COUNTY) TO R-2/UGM, AS AMENDED, WITH A REDUCED SETBACK

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Gerster reviewed the issue as contained in the staff report as submitted, including the applicant's request for a reduced setback, and recommended Council approve staff's recommendation for a 45-foot setback along the north property line.

Speaking to the issue were: Applicant Scott Ellis, Jr., who stated this project would be developed to the same high standards as the preceding project, displaying a site plan to illustrate, and who requested a 5-foot side yard setback as approved by a former staff member and explained; and Barbara Hunt, 2475 S. Walnut, support.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Duncan stated he felt in this case the developer was told one thing by a staff member and it was then taken back as the project moved along which was not fair and explained, stated he did not think the smaller setback would be a problem and clarified the direction was given to the developer by a high ranking staff member early on and the developer followed that direction to do his planning, and stated the project would be extraordinary and with the shorter setbacks space would be utilized well, and made a motion to approve the project with the shorter setback.

Mr. Ellis responded to questions of Councilmember Boyajian relative to whether Willow Avenue would be widened and if he would pay his fair share towards traffic signals.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. R-02-31/C-03-57/R-02-32/C-03-58, dated December 30, 2003, hereby approved, and the above entitled Bill No. B-72 rezoning the project site adopted as Ordinance No. 2004-71, as amended, to allow for the smaller setback, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(2-A) COUNCIL RECONSIDERATION OF FISCAL YEAR 2005 BUDGET LINE ITEMS (ANNUAL APPROPRIATION

RESOLUTION NO. 2004-209) AS REQUESTED BY MAYOR AUTRY ON JULY 2, 2004

1. RESTORATION OF \$180,000 FOR THE POSITION OF INDEPENDENT POLICE AUDITOR (IPA)

A motion and second was made to approve the Mayor's request for reconsideration.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

A motion of Councilmember Boyajian, seconded by Councilmember Sterling, to approve the Mayor's request for reconsideration failed, by the following vote:

Ayes :	Boyajian, Sterling
Noes :	Calhoun, Dages, Duncan, Perea, Castillo
Absent :	None

144-12

7/20/04

RECESS - 4:34 P.M. - 5:02 P.M.

(5:00 P.M.) HEARING ON PLAN AMENDMENT NO. A-03-07, REZONE APPLICATION NO. R-03-49, AND ENVIRONMENTAL FINDINGS, FILED BY DIRK POESCHEL ON BEHALF OF WCM LAND L.P. AND NORMAN LIDDELL, PROPERTY LOCATED ON THE EAST SIDE OF N. POLK BETWEEN W. RIVER VISTA DRIVE AND THE SAN JOAQUIN RIVER BLUFF EDGE IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-07/R-03-49

2. RESOLUTION NO. 2004-244 - AMENDING THE 2025 FRESNO GENERAL PLAN, THE BULLARD COMMUNITY PLAN, AND THE SIERRA SKY PARK LAND USE POLICY PLAN

3. BILL NO. B-73 - ORDINANCE NO. 2004-72 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-20/UGM TO R-1/BP/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Salinas reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Dirk Poeschel, 923 Van Ness, on behalf of the applicant, who spoke briefly to the project, clarified there would be no vehicular or pedestrian access to the river bottom, and stated there were no issues or inconsistencies with the Parkway Plan; **(8 - 0)** Barbara Hunt, 2475 S. Walnut, support; and Steve Spratt, San Joaquin River Parkway and Conservation Trust, who wanted assurance the right of way between the Polk overlook and the proposed development would be maintained for future access to the river.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Upon question of Councilmember Calhoun, Planning Manager Haro confirmed the access referred to by Mr. Spratt was not a part of this parcel and would in no way impose any impediment on the parkway trust. Councilmember Calhoun stated this had been an extensive process, spoke in support of the project, and made a motion to approve staff's recommendation.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. A-03-07/R-03-49, dated February 24, 2004, hereby approved, the above entitled Resolution No. 2004-244 hereby adopted, and the above entitled Bill No. B-73 adopted as Ordinance No. 2004-72, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:12 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the 27th day of July, 2004.

_____/s/_____
ATTEST:_____/s/_____

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk